

Before the  
**Federal Communications Commission**  
Washington, DC 20554

In the matter of	)	
	)	
Rural Call Completion	)	WC Docket No. 13-39
	)	

**REPLY COMMENTS OF MIDCONTINENT COMMUNICATIONS**

Midcontinent Communications (“Midcontinent”), by its attorneys, hereby submits its reply comments in response to the Commission’s *Notice* in the above-referenced proceeding.<sup>1</sup> As shown below, in considering rules to address call completion issues, the Commission should recognize that these concerns typically relate to actions by the underlying interexchange carrier, not by the originating carrier; that any reporting requirements should be tailored to minimize unnecessary burdens on reporting carriers; and that rural carriers terminating calls should have obligations as well.

**I. Introduction**

Midcontinent provides service to customers in Minnesota, North Dakota and South Dakota. Midcontinent has long provided video, broadband and voice services to customers throughout its footprint, including in some of the most rural portions of its service territory. Midcontinent was, in fact, one of the first cable companies to provide competitive local telephone service, and first began offering telephone service in 1998. Today, Midcontinent has more than 130,000 customers for its facilities-based voice services.

Midcontinent’s service into rural areas gives it significant incentives to ensure that all calls to rural customers – whether served by Midcontinent or by another carrier – are able to

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<sup>1</sup> Rural Call Completion, *Notice of Proposed Rulemaking*, WC Docket No. 13-39 (rel. Feb. 7, 2013) (the “*Notice*”).

make and receive all telephone calls. Midcontinent's policy is to complete all calls, and this policy is reflected in Midcontinent's agreements with long distance carriers, which require them to complete all calls sent to them by Midcontinent. Midcontinent takes a proactive approach to call completion: Trouble tickets are monitored daily, trends on potential problem areas are tracked and Midcontinent holds regular meetings with underlying carriers to review quality issues. If there are ongoing problems with call completion, Midcontinent works with the underlying carrier to address them and, if necessary, re-routes calls that specific carriers cannot complete.

These reply comments respond to a limited set of issues raised in the comments on the *Notice*. In particular, Midcontinent believes it is important for the Commission to understand the limitations on the ability of originating carriers like Midcontinent to identify and address call completion issues, which typically arise in the interaction between a long distance carrier and a terminating carrier. Similarly, some call completion issues result from actions (or inaction) by the terminating carriers, so any Commission approach to call completion must include those carriers. Finally, the Commission should recognize the burden that could be created by new reporting requirements, and act to minimize the impact on smaller carriers like Midcontinent.

## **II. Most Call Completion Issues Are Outside the Control of Originating Carriers.**

Midcontinent, like many competitive local exchange carriers ("CLECs"), hands off the vast majority of its long distance traffic to long distance carriers for completion.<sup>2</sup> In Midcontinent's case, calls are handed off unless Midcontinent has direct interconnection and an appropriate agreement with the terminating carrier.<sup>3</sup> Midcontinent contracts with a variety of

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<sup>2</sup> See, e.g., Time Warner Communications ("TWC") Comments at 2.

<sup>3</sup> While Midcontinent has such arrangements with many rural carriers in its service territory, it does not have such arrangements with all of them, and has no such arrangements with rural carriers that serve locations outside Midcontinent's service territory.

carriers to terminate its calls, and calls are routed to individual carriers based on price, service quality, congestion and other similar factors. Midcontinent maintains arrangements with a number of underlying carriers to ensure network diversity and to have options available to route calls via a number of carriers should call completion and quality issues arise. Once a call is handed off, Midcontinent has no control over the subsequent routing and completion of that call. These arrangements are quite common, as very few carriers have the wherewithal to construct national facilities-based long distance networks.<sup>4</sup>

One consequence of using other carriers to complete calls is that Midcontinent (and any other carrier with a similar arrangement) has only a limited ability to obtain information about the fate of any given call. Midcontinent's switch records report only the length of the call, and certainly do not contain information on why a call did not complete, whether it was intercepted (which could look like completion in switch records) or whether the call quality was good, bad or indifferent. Midcontinent is entirely unable to determine, let alone record, any of this information.

The *Notice*, however, would place all reporting responsibility on the "first facilities-based provider that is involved in handling the call."<sup>5</sup> This kind of reporting will not help the Commission address the issue, except in a handful of cases. Moreover, to the extent that an originating carrier is required to report information its own systems do not create or store (and, indeed, information that may not reflect what actually happened), the originating carrier will be dependent on the intermediate carriers that transmit its calls. Indeed, under the proposed rules, Midcontinent would face even more burdens in preparing reports because it uses multiple

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<sup>4</sup> See CBeyond, Earthlink, Integra and TW Telecom Comments ("CBeyond Comments") at 2.

<sup>5</sup> *Notice*, ¶ 24.

intermediate carriers and would be forced to obtain, collate and analyze information from multiple carriers to prepare the required reports.<sup>6</sup>

These limitations suggest two specific modifications to the reporting requirements. First, the requirements should apply not to originating carriers, but to the intermediate carriers that bring calls to terminating carriers. These intermediate carriers are the ones that have the information necessary for the Commission to analyze call completion issues.<sup>7</sup> Second, to the extent that originating carriers are required to report, they must not be penalized for failing to report information that they do not have and cannot readily obtain. Rather, they should be required to report only the information they keep in the ordinary course of business.

### **III. Any Rules Concerning Call Completion Must Account for Actions by Terminating Carriers.**

Calls fail to complete for many different reasons, ranging from equipment failures to conscious decisions by some carriers not to complete calls or to permit those calls to complete. Not all of these reasons relate to originating or intermediate carriers. For instance, calls do not complete when local service is out following a natural disaster like Hurricane Sandy and the recent tornados in Oklahoma.

Further, Midcontinent's experience is that it is difficult to terminate calls to some rural carriers regardless of the intermediate long distance carrier it uses. In some cases, Midcontinent has tried to route calls to these carriers through multiple long distance carriers with no success, or has been forced to rely only on the largest long distance carriers, which charge the highest rates, to terminate to those carriers. While this experience is not common, it also is not isolated –

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<sup>6</sup> Indeed, in some cases it is not apparent how the reporting would work. For instance, if one carrier sends a route return code back to Midcontinent, which then re-routes the call to a second carrier for completion, the first carrier may treat it as an uncompleted call even though the call actually did go through. If Midcontinent were required to report the call as uncompleted by the first carrier, not only would the report be inaccurate, but Midcontinent might be required to report more calls than actually occurred.

<sup>7</sup> See CBeyond Comments at 2.

there are at least half a dozen rural carriers that appear to have termination issues regardless of the underlying carrier used by Midcontinent to transmit calls.

Midcontinent also has experienced situations in which it experiences unusual traffic congestion when it sends traffic to rural carriers, problems that are caused by a failure to provide sufficient facilities. For that matter, Midcontinent has been confronted with situations in which rural carriers have refused to interconnect directly with Midcontinent or with intermediate carriers that carry Midcontinent's traffic, often on the ground that the amount of traffic does not justify interconnection. Without direct interconnection, call completion can become significantly more difficult.

Given these facts, it is apparent that any reporting regime cannot simply look at carriers that originate or provide intermediate links for calls, but also must consider the impact of actions by terminating carriers. This is particularly important because call completion is not a one-carrier responsibility, but is an obligation of each carrier in the chain. The Commission's analysis of what causes call completion problems and how they can be addressed will be inadequate if it does not consider every link in that chain. Indeed, Midcontinent's experience suggests that at least some of the solution will lie with terminating carriers, not those that originate the calls.

In addition, terminating carriers should be required to take specific steps to help other carriers isolate the problems that lead to call completion failures. These steps include full cooperation with investigations and inquiries from originating and intermediate carriers and, equally important, provision of test lines that can be used to determine whether there is a general problem or a problem that is isolated to a specific customer line. Again, these steps are

necessary because call completion is a multi-factor problem, and is not merely a question of some intermediate carriers refusing to send calls to terminating carriers.

**IV. Any Reporting Rules Should Be Designed to Minimize the Burden on Smaller Originating Carriers.**

Midcontinent has reviewed the potential burdens that would result from adoption of a new reporting regime for call completion, and they are substantial. Midcontinent does not presently maintain much of the information that would be required to comply with the proposed requirements and, as noted above, in many cases it would be required to rely on intermediate carriers to provide information that the reports would required. Based on its analysis, Midcontinent has concluded that it could need to develop new storage and retrieval systems to support any new reporting requirement for call completion. The costs for doing so would be substantial, and even after new systems were developed, the ongoing costs for compliance would be substantial if the current proposal were adopted.

This is not just an issue for Midcontinent. The American Cable Association (“ACA”) noted that one of its members with approximately 20,000 voice subscribers would have to expend about 100 person-hours a month – more than 60 percent of a full-time employee – just to analyze, audit and report on call completion data.<sup>8</sup> These costs would come after substantial up front costs, including those for establishing the process and upgrading the company’s storage to meet a mandate of keeping records for six months. Midcontinent would experience similar cost increases, except at a greater scale.

The Commission can address these issues in several ways. First, it can adopt thresholds for reporting that exclude smaller providers for which reporting would be onerous. One threshold to consider would be requiring reporting by originating carriers only if they serve at

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<sup>8</sup> ACA Comments at 9.

least 100,000 customers (or access lines) in a study area. This threshold would cover all of the larger, more significant carriers, without burdening smaller carriers that serve fewer customers.<sup>9</sup> Alternatively, the Commission could adopt a minimum threshold for the number of calls to a specific terminating carrier that would have to be attempted before the reporting requirement applied, such as 500 calls in a month.<sup>10</sup>

In addition, to the extent that the Commission requires reporting from Midcontinent and other small carriers, it should look for measures that account for factors outside of the carrier's control so as to avoid the problem of over-reporting call completion problems. For instance, Time Warner Cable notes that the Network Efficiency Ratio ("NER"), a measure it favors, accounts for times when the called party's line is busy, when there is no answer and when there are terminal rejects, all of which actually are completed calls from the perspective of the originating and intermediate carriers.<sup>11</sup> While Midcontinent does not suggest that the Commission adopt the NER, it should ensure that these types of calls are not treated as incomplete calls in any reporting program it adopts, and should consider this factor in adopting any specific measure of call completion rates.

For purposes of ensuring that carriers have the information necessary to prepare their reports, the Commission also should adopt a requirement any consumer who wants to file a call completion complaint must contact his or her local carrier first to permit the carrier to investigate the issue and provide a response. This approach will have significant benefits, including

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<sup>9</sup> These thresholds would be independent of how the reporting requirements would apply to intermediate and terminating carriers.

<sup>10</sup> Midcontinent also supports the proposal by Associated Network Partners, Inc. and Zone Telecom, Inc. to limit reporting by setting a performance threshold below which reporting is not required for any given OCN. Associated Network Partners, Inc. and Zone Telecom, Inc. Comments at 7. In any event, the Commission should permit carriers to aggregate all reports applicable to a single terminating carrier. Many terminating carriers have multiple operating carrier numbers, but it would not be helpful to the Commission to report on each OCN separately.

<sup>11</sup> TWC Comments at 10.

allowing carriers an opportunity to address any potential call completion issues as promptly as possible.

## V. Conclusion.

For all of these reasons, the Commission should adopt rules consistent with these reply comments.

Respectfully submitted,

## Midcontinent Communications

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June 11, 2013